

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

SIMBI KESIYI WABOTE,	:	
Plaintiff,	:	
	:	
v.	:	No. 5:21-cv-2214
	:	
JACKSON UDE,	:	
Defendant.	:	

ORDER

AND NOW, this 8th day of March 2022, upon consideration of the parties' dual requests for sanctions, *see* ECF No.'s 105, 106, 107, 108, and 110, after hearing oral argument on the matter, and for the reasons given in the Opinion issued this date, **IT IS HEREBY ORDERED THAT:**

1. Defendant's request for sanctions is **DENIED**.
2. Plaintiff's request for sanctions is **GRANTED** as follows:
 - a. Plaintiff is awarded his reasonable expenses and attorney's fees incurred in bringing this request;
 - b. The Court orders Jackson Ude to submit to a third deposition at the option of Plaintiff. If Plaintiff chooses to depose Mr. Ude again, then the following guidelines will apply:
 - i. Plaintiff will be awarded his reasonable expenses and attorney's fees incurred in preparing for and taking the third deposition;
 - ii. The deposition must take place within 21 days of this Order;¹
 - iii. The deposition will take place at the Edward N. Cahn U.S. Courthouse and Federal Building, Courtroom C, Third Floor, 504 West Hamilton Street, Allentown, under the direct supervision of the Court;

¹ Plaintiff will email chambers immediately with his decision of whether he wishes to depose Mr. Ude again. If Plaintiff wishes to depose Mr. Ude again, then Chambers will provide to Plaintiff and Defendant a number of dates and times that it has available for the deposition, and Plaintiff will confirm with defense counsel and chambers the date and time that works for the parties as soon as possible. Plaintiff will copy counsel for Defendant on these emails.

- iv. The deposition will not last longer than two hours;
 - v. The plaintiff will be responsible for retaining and paying for the cost of a court reporter;
 - vi. Counsel for Defendant will be prohibited from making objections other than form objections (which must be explained in a concise manner if so directed by the court at the deposition) or to assert a privilege, or to enforce a limitation on evidence directed by the Court, or to present a motion under Federal Rule of Civil Procedure 30(d);
 - vii. Counsel for Defendant shall not make objections or statements which might suggest an answer to Mr. Ude;
 - viii. Mr. Ude and his counsel will not engage in private, off-the-record conferences nor during breaks or recesses, except for the purpose of deciding whether to assert a privilege;
 - ix. Any conferences which occur pursuant to, or in violation of, guideline (viii) are a proper subject for inquiry by deposing counsel to ascertain whether there has been any witness-coaching and, if so, what; and
 - x. Any conferences which occur pursuant to, or in violation of, guideline (viii) shall be noted on the record by the counsel who participated in the conference. The purpose and outcome of the conference shall also be noted on the record.
- c. Plaintiff shall file a single petition for expenses (which may include the cost of the court reporter if there is a third deposition) and attorney fees (for expenses and attorney fees incurred in bringing this request for sanctions, and for preparing for and conducting the third deposition if there is a third deposition) pursuant to this Order within 14 days of this Order **or** within 14 days of Mr. Ude's third deposition if Plaintiff chooses to depose Mr. Ude again; and
- d. Once the Court approves Plaintiff's petition under guideline (c), counsel Benneth Amadi will be responsible for paying 90% of the final approved expenses and fees and Mr. Ude will be responsible for paying 10%, all such

payments to be made payable to plaintiff counsel within the deadline set by the Court's order.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.

JOSEPH F. LEESON, JR.

United States District Judge